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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/662,737

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KIMBO MUNDY

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EXAMINER

AKINTOLA, OLABODE

ART UNIT

PAPER NUMBER

3624

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/662,737	MUNDY ET AL.	
	Examiner	Art Unit	
	Olabode Akintola	3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2-33 and 47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-33 and 47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>06/06/2005</u> | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 2-33 and 47 are pending. Applicant is reminded to cancel the non-elected claims 35-37, 39-44, 48 and 49.

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 47, 4-5, 8-25 and 29-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Rackson et al. (U.S. Patent No. 6415270).

Re claim 47: Rackson teaches a computer-implemented method for aggregating information, the method comprising: receiving a specification of a class of items by a selected shopper via a host user interface provided by a host computer that is in communication with a plurality of enterprises over a network (col. 11, 40-42; col. 24, lines 8-11 & Figs. 1-3), wherein each enterprise offers items for exchange over the network, stores information about the items it offers in an enterprise database and interacts directly with shoppers (col. 9, lines 7-11); in response to the specification of the class of items by the shopper, collecting information about a selected item within the class from at least two enterprises and information about a second selected item within the class from at least one enterprise (Col. 7, lines 22-36; Fig. 14); storing the information collected from the enterprises in a host database (col. 9, lines 7-12 & 36-38;

Figs. 3 and 10); and providing the information collected from the enterprises to the selected shopper via the host user interface (Fig. 14).

Re Claims 4 and 8: Rackson teaches the steps wherein collecting information includes collecting publicly accessible information (col. 9, lines 40-45).

Re claim 5: Rackson teaches plurality of auction sites offering items for purchase over the network and the enterprise databases correspond to auction databases associated with the auction sites (see Abstract, Figs. 3 and 10).

Re Claims 9 and 10: Rackson teaches the step comprising periodically collecting the information from the enterprises, and updating the information stored in the host database with sufficient frequency to enable the shopper to monitor and participate effectively in the bidding activity at the auction sites (col. 5, lines 15-17; col. 13, lines 51-63).

Re Claim 11 and 13: Rackson teaches the step comprising dynamically scheduling the collecting of information from the auction databases based upon content of previously collected information (col. 16, lines 26-32).

Re Claim 12 and 17: Rackson teaches the step comprising: receiving, via the host user interface, an auction watch request from the selected shopper for a third selected item, monitoring with the host computer a bidding activity at a specified auction site for the third selected item, in response to the received auction watch request, and displaying the bidding activity to the shopper by way of the host user interface, and monitoring the auction sites to detect if the specified item becomes available for bidding at the auction sites in response to the item watch request from the shopper (col. 28, lines 26-29).

Re claims 14 and 16: Rackson teaches the step comprising: enabling the host user interface to accept from the shopper an update request, and updating at least a portion of the information stored in the host database substantially in real-time in response to the update request (col. 8, lines 64 - col. 9, lines 3; col. 4, lines 57-67).

Re claim 15: This claim is rejected for the same rationale given in claims 9 and 12, supra.

Re claims 18, 21, 22 and 23: Rackson teaches the step comprising providing the shopper with notification in response to detecting the specified item becoming available for bidding, wherein the host computer provides the notification by way of a host computer-initiated mechanism different from the host user interface (col. 23, lines 18-29; col. 12, lines 54-58).

Re claim 19 and 32: Rackson teaches the step comprising: detecting availability of items within the class of items at the auction sites (col. 24, lines 8-15).

Re claim 20: Rackson teaches the step comprising distinguishing between newly detected ones of the items from previously detected ones of the items (col. 23, lines 45-50).

Re claim 24: Rackson teaches the step wherein the host computer-initiated mechanism includes providing a hyperlink to the host user interface (col. 12, lines 65-col. 13, lines 5)

Re claim 25: Rackson teaches the step comprising searching the host database for items within the class of items and displaying auction information with regard to the items within the class of items to the shopper by way of the host user interface (col. 4, line 49-52; col. 24, lines 41-44).

Re claims 29 and 30: Rackson teaches the step wherein the host user interface accepts from the shopper an indication of particular ones of the auction sites to restrict the class of items (col. 6, lines 53-55).

Re claim 31: Rackson teaches the steps wherein the particular type of auction site includes person-to person auctions and business-to-person auctions (col. 9, lines 50-67; Figs. 1-4).

Re claim 33: Rackson teaches, the step wherein the host user interface accepts the shopper an indication of at least one of a specific price and a price range for the class of items (col. 24, lines 1-4).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2-3 and 6-7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rackson.

Re claims 2-3 and 6-7: Rackson is as discussed above. Rackson does not explicitly teach the steps wherein collecting information includes crawling HTML & XML page tree. Official

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notice is hereby taken that it is old and well known in the art to collect information using crawling HTML & XML page tree. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Rackson to include the step wherein collecting information includes crawling HTML & XML page tree. One would have been motivated to do this because it enhances the system by providing syntax for information markup and for specifying information structure.

4. Claims 26-28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rackson in view of Rose et al. (U.S. Patent No. 5752244).

Re claims 26-28: Rackson is as discussed above. Rackson does not explicitly the host user interface accepts from shopper an indication specific keywords to restrict the class of items; the host user interface accepts from shopper indication of at least one category to restrict the class of item; an indication of a combination of keywords and at least one category to restrict the class of items.

Rose teaches the host user interface accepts from shopper an indication specific keywords to restrict the class of items; the host user interface accepts from shopper indication of at least one category to restrict the class of item; an indication of a combination of keywords and at least one category to restrict the class of items (col. 18, lines 10-11 and col. 20, lines 66- col. 21, lines 2).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Rackson to include the host user interface accepts from shopper an indication specific keywords to restrict the class of items; the host user interface accepts from

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shopper indication of at least one category to restrict the class of item; an indication of a combination of keywords and at least one category to restrict the class of items as taught by Rose. One would have been motivated to do this in order to provide the shopper with more flexibility in restricting items.

### ***Response to Arguments***

Applicant's arguments with respect to claims 47, 11, 13, 17, 18 and 26-28 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olabode Akintola whose telephone number is 571-272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 571-272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OA



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PRIMARY EXAMINER